THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.27060 of 1997

Dated:30.04.2007

Between
V.L.Narayana

.....Petitioner

and

1.The Labour Court,
Godavarikhani rep., by its
Presiding Officer and another.

…Respondent

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.27060 of 1997

ORDER:

This writ petition is filed challenging the Award dated 27.3.1995 made in I.D.No.152 of 1992 on the file of the 1st respondent-Labour Court, Godavarikhani.

It appears that the petitioner was appointed as a Conductor in the respondent-Corporation in the year 1987 and was attached to the Korutla Bus Depot. On 29.11.1991 when the petitioner was conducting bus on route Rudrangi to Korutla, a check was exercised by the Checking Officials, at stage No.7/6 and certain cash and ticket irregularities were detected. Thereafter, a charge sheet was issued enumerating the following charges:

a.For having failed to observe the rule 'Issue and Start' which constitutes mis-conduct under Reg.28 (xxxii) of

APSRTC Employees (Conduct) Reg.1963.

b.For having failed to issue tickets to a batch of 3 (three) passengers traveling without tickets who boarded the bus at Rudrangi and bound for Ambaripet, ex.stages 7 to 6 even after collecting the requisite fare of Rs.1.50ps each which constitutes misconduct under Reg.28 (vi) (a) of APSRTC Employees (Conduct) Reg.1963.

c.For having failed to collect the fare and issue tickets to a batch of two (2) passengers, who boarded the bus at Rudrangi and bound for Korutla, ex stages 7 to 1 which constitutes mis-conduct under Reg.28 (vi) (a) of APSRTC Employees (Conduct) Reg.1963.

d.For having failed to collect the fare and issue tickets to a lady passenger, who boarded the bus at Rudrangi and bound for Kathalapoor, ex.stages 7 to 4/3, which constitutes mis-conduct under Reg.28(vi) (a) of APSRTC Employees (Condeuct) Reg.1963."

An explanation was called for and thereafter, a detailed enquiry was conducted into the matter and ultimately the petitioner

was removed from service on 29.11.1991. Therefore, the petitioner raised a dispute under Section 2-A (2) of the Industrial Disputes Act, 1947 before the Labour Court, Godavarikhani. The petitioner contended that the enquiry was not properly conducted and no opportunity was given to him to defend his case. Further, the charges are not proved and the findings recorded are not based on any acceptable evidence. Even assuming that the charges are proved, the punishment of removal from service is disproportionate to that of the misconduct.

Respondent-Corporation filed counter-affidavit denying the allegations made by the petitioner.

No oral evidence was adduced on behalf of both the parties. On behalf of the petitioner-workman, Exs.W1 and W2 were marked. On behalf of the respondent-Corporation, Exs.M1 to M24 were marked.

After considering the documentary

evidence placed before it, the Labour Court came to the conclusion that the punishment of removal from service is disproportionate to that of the misconduct proved and therefore, while exercising its powers under Section 11-A of the Act, directed the respondent-Corporation to appoint the petitioner as a fresh conductor, without continuity of service and back wages. Aggrieved by the same, the present writ petition is filed.

Learned counsel for the petitioner strenuously contended that firstly the charges are very vague; secondly even if it is assumed that all the charges are proved, the Labour Court ought not to have denied continuity of service, back wages and attendant benefits while ordering reinstatement afresh. The labour Court failed to see that there were 90 passengers at the time of check and the bus did not move even two furlongs beyond stage No.7/6 and the passengers in question were traveling from stage No.7. Even the conductor

is allowed to finish the issue of tickets within one fare stage, the bus has not crossed even one fare stage. Therefore, absolutely there was no misconduct on the part of the petitioner for inflicting such punishment of denying continuity of service, back wages and attendant benefits etc.

Learned counsel for the respondent supported the award made by the Labour Court and contended that the Labour Court has taken a lenient view of the matter. Therefore, the petitioner is not entitled for any relief as prayed for.

I have given my earnest consideration to the respective submissions made by the learned counsel on either side and perused the impugned award and other material made available on record.

From the charges as noticed above, Charge Nos.1, 3 and 4 have no consequences of whatsoever. The charge No.1 relates to the procedure. Charge Nos.3 and 4 are that the

petitioner failed to collect the fare and issue tickets to the passengers. Charge No.2 seems to be serious. But that also not much effect for the reason that the TTIs themselves accepted that at the time of check 90 passengers were in the bus and the bus has moved just three furlongs beyond stage No.7 and proceeding to stage No.6. The three passengers, to whom it was alleged under Charge No.2 that the petitioner had failed to issue tickets, had given the fare and the petitioner was in the process of issuing tickets. Therefore, the allegation that the petitioner could not complete the issue of tickets at stage No.7 when the bus was over loaded with 90 passengers cannot be said to be a serious charge at all. However, the Labour Court took a lenient view of the matter and came to the conclusion that the punishment of removal from service is disproportionate to that of the misconduct alleged against the petitioner. I am of the opinion that the Labour Court while

directing reinstatement ought to have granted continuity of service while denying back wages and attendant benefits. Therefore, I deem it appropriate to modify the Award passed by the Labour Court.

In the result, the respondent-Corporation is directed to reinstate the petitioner with continuity of service but without any back wages and attendant benefits.

With the above modification, the writ petition is disposed of. No costs.

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30-04-2007

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